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NORTH BAY CREDIT UNION;
CHRIS CALL

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AUSTIN CAPITAL TRUST COMPANY
LLC,

Plaintiff,

vs.

NORTH BAY CREDIT UNION; CHRIS
CALL; CAROLE McCORMICK; DOES 1
through X, inclusive; and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

CASE NO. 3:23-cv-00444-LRH-CSD

**JOINT MOTION AND ORDER TO
EXTEND TIME AND TO MODIFY
DISCOVERY PLAN AND SCHEDULING
ORDER**

(FIRST REQUEST)

Pursuant to Local Rule IA 6-1, Local Rule IA 6-2, and Local Rule 26-3, Plaintiff Austin Capital Trust Company LLC (“Plaintiff”) and Defendants North Bay Credit Union (“NBCU”), Chris Call, and Carole McCormick (collectively “Defendants”), by and through their undersigned counsel, hereby submit this Joint Motion and Order to Extend Time and to Modify Discovery Plan and Scheduling Order (First Request). This is the first request for an extension of time concerning this case’s discovery deadlines, and there is good cause for this request; therefore, the parties respectfully request to extend the discovery deadlines specified below by thirty (30) days.

On November 8, 2023, the parties submitted their proposed Discovery Plan and Scheduling Order [Dkt. #14], which explained why more time was needed for discovery than the presumptive 180 day period from the date of first defendant’s appearance. Defendants first appeared by filing a Motion to Dismiss on October 2, 2023. On October 16, 2023, Plaintiff filed its First Amended Complaint. The parties stipulated to extend the deadline for Defendants to respond to the First Amended Complaint to November 13, 2023. On November 9, 2023, the Court submitted its Order to the parties’ proposed Discovery Plan and Scheduling Order [Dkt. #15].

A. Statement specifying the discovery completed.

The parties have exchanged initial disclosures.

B. Statement specifying the discovery that remains to be completed.

Written discovery, depositions, and expert discovery.

C. The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan.

On November 13, 2023, Defendants filed a motion to dismiss Plaintiff’s First Amended Complaint. On December 11, 2023, Plaintiff submitted its response, and on December 29, 2023, Defendants filed their reply. The parties are still awaiting this Court’s ruling on the motion to dismiss.¹

¹ One of the key arguments raised in the motion pertains to the Court’s lack of jurisdiction over NBCU. It is important to note that Defendants’ agreement to jointly request a modification of the Discovery Plan and Scheduling

On April 2, 2024, this Court filed its Reassignment Order [Dkt. #36] stating that the presiding District Judges determined that the present action and NBCU v. MRB Direct, Inc., et al., (Case No. 2:24-cv-00212-CDS-DJA) (the “MRB Direct Case”)² are related and that there is good cause to reassign the cases to one District Judge, Larry R. Hicks and Magistrate Judge, Craig S. Denney, pursuant to Local Rule 42-1.

The Discovery Plan and Scheduling Order [Dkt. #15] filed on November 9, 2023, has not been vacated or modified.³ This case is pending the Court’s decision on the motion to dismiss. The MRB Direct Case has been transferred to this Court and recently reassigned. Thus, the parties are proposing an extension of the deadlines to allow for a simultaneous track regarding discovery and scheduling in both cases. The parties will be submitting a proposed scheduling order for both this case and the MRB Direct Case on or before April 19, 2024. Given the substantial overlap between the claims in this case and the MRB Direct Case, the discovery in each will overlap significantly. This request is aimed at ensuring that the cases progress in a coordinated manner, thereby facilitating a more efficient and consistent management of the litigation process.

Pursuant to the Discovery Plan and Scheduling Order [Dkt. #15] filed on November 9, 2023, the initial expert disclosures deadline is April 30, 2024, and the deadline to file motions to amend pleadings and/or add parties is May 1, 2024.

D. Proposed schedule for completing all remaining discovery.

Defendants request an extension of time at this time and to modify the Discovery Plan and Scheduling Order with respect to the initial expert disclosures and to amend pleadings and/or add parties deadlines by thirty (30) days. The new proposed deadline for initial expert disclosure is May 30, 2024. The new proposed deadline to file motions to amend pleadings and/or add

Order does not constitute a waiver of any of Defendants’ arguments or objections in the motion, including, but not limited to NBCU’s arguments and objections regarding jurisdiction.

² The Court has not yet set a deadline for the defendants in the MRB Direct case to respond to the complaint in that action.

³ In the MRB Direct Case, the parties will meet and confer to discuss agreeing to a discovery plan and scheduling order. The parties anticipate filing a joint motion to extend time and to modify Scheduling Order in this action to ensure that the parties in both cases have adequate time to prepare and respond to discovery requests.

1 parties is May 31, 2024. As noted above, the parties will be submitting a proposed scheduling
2 order for both this case and the MRB Direct Case on or before April 19, 2024 with additional
3 revised deadlines to apply to both this case and the MRB Direct Case,

4 The joint motion is brought in good faith and not for purposes of delay. Upon the Court
5 approving this Joint Motion and Order, it shall serve as the First Amended Discovery Plan and
6 Scheduling Order applicable and controlling in this case.

7 Respectfully submitted,

8 Dated: April 9, 2024

GORDON REES SCULLY MANSUKHANI

9
10 By: /s/ Sean Flynn
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Tomiko Ortiz (SBN 16599)
11 Attorneys for Defendants
12 NORTH BAY CREDIT UNION and
CHRIS CALL

13 Dated: April 9, 2024

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15 By: /s/ Mark J. Connot
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16 Attorneys for Plaintiff
17 AUSTIN CAPITAL TRUST
18 COMPANY LLC

19 Dated: April 9, 2024

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21 By: /s/ Samuel R. Mirkovich
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Samuel R. Mirkovich (SBN 11662)
22 Nicholas S. Hagenkord (SBN 15927)
23 Attorneys for Defendant
CAROLE McCORMICK

24 IT IS SO ORDERED:

25 
26 U.S. MAGISTRATE JUDGE

27 DATED: April 10, 2024